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September 14, 2011

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 - 12th Street, SW
Washington, DC 20554

Re: Notice of Ex Parte Presentation – WC Docket Nos. 11-42, 03-109 and CC Docket No. 96-45

Dear Ms. Dortch:

On Monday, September 12, 2011, David Skogen of Global Connections (Global), Jerry Holt of Midwestern Telecommunications (MTI), Chuck Campbell of CGM, and the undersigned on behalf of Global, MTI and other members of the Link Up for America Coalition (Coalition) (member listing at p. 2 of the attached ex parte presentation) met with Kim Scardino of the Wireline Competition Bureau to discuss proposed reforms to the Link Up component of the Commission's Low Income Universal Service program. During the meeting, we discussed the Commission's proposed reforms to the Link Up subsidy program. Our comments were consistent with the comments and replies filed by the Coalition on August 26, 2011 and September 2, 2011, respectively, in the above-captioned docket. Copies of documents discussed at the meeting are appended hereto for inclusion with this letter in the record of the above-captioned proceedings.

In response to questioning from Ms. Scardino, the parties explained that each was a facilities-based reseller with CETC status in various states. The Coalition explained that they shared the Commission's desire to curb waste, fraud and abuse in the Link Up program. To further this goal, the Coalition is developing a code of conduct aimed at ensuring that reasonable and adequate controls are used to eliminate duplicates before requests for Link Up reimbursement are submitted. The Coalition also is working to develop a voluntary, independent interim de-duping process modeled on the Commission's long-term proposed database solution. With Coalition members representing a significant portion of new Link Up funding requests, we

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believe that industry-based self-regulatory efforts such as these can contribute significantly toward achieving the Commission's short-term and long-term universal service goals. We promised to report back on our efforts soon.

In response to various questions posed by Ms. Scardino with respect to cost information and arguments filed by the Coalition, members explained that because Link Up is a revenue replacement mechanism, neither the Commission nor the states regulate in a manner that would require such revenues to cover specific costs and not others, particularly marketing costs. That said, the Coalition submitted data demonstrating that there are substantial costs involved in the process of getting customers and activating them as new customers. We noted that CenturyLink had explained that marketing costs were factored into its activation charges and asserted that the same likely was true for most carriers.¹ Global and MTI also explained that they focus on the low income market and within this space have both Lifeline and non-Lifeline customers. The carriers further explained that their activation charges were developed to apply to both sets of customers.

The Coalition submitted that the Commission lacks sufficient data to reset subsidy caps at this point in time and committed to work with the Commission to explore which costs should be factored into a revised cap to be implemented at some point in the future. The Coalition cautioned against an interim freeze in Link Up funding, as such action would cause irreparable harm to CETCs with business models focusing on low income consumers eligible for Link Up and Lifeline funding. The Coalition also cautioned against conversion of the Link Up program from a revenue replacement model to a cost reimbursement model, noting that the latter would be unduly burdensome to carriers, the Commission and USAC. We also noted that the burdens of charging low income customers a token fee were severely outweighed by the costs, notably billing and collection inefficiencies and decreased subscribership levels.

With respect to the Commission's proposed definition of "customary charge" the Coalition reiterated its opposition to the Commission's proposed restrictions on waivers, reductions and credits, as such restrictions would harm Link Up/Lifeline eligible consumers and no others (activation fees are standard for most carriers and waivers and discounts are common). At the very least, the Commission should allow for exemptions, including when Link Up activation fee waivers are included in state CETC designation orders.

The Coalition also focused on its members' deeper reach into the low income market and contrasted it to the more limited reach of TracFone. The Coalition also brought two present-day screen shots from TracFone's website providing proof that (a) TracFone still offers

¹

CenturyLink Reply Comments at 5.

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its customers chunky \$19.99 top-up packages at \$0.20/minute rate, and (b) on 250 minute plans, top-up minutes are “wiped-out” in a matter of days (never thirty or more).

Neither Global nor MTI could recall any instance where they ever encountered Cricket personnel engaged in grassroots marketing. In response to Cricket’s argument that Link Up was unnecessary because CETCs could simply raise per minute rates, the Coalition pointed out that this “let them eat cake” approach to public policy was hardly consistent with the goals of the universal service program notwithstanding any balancing of demands needing to be done.

In accordance with the Commission’s rules, this letter is being filed electronically for inclusion in the public record of the above-referenced proceedings.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John J. Heitmann", with a stylized flourish at the end.

John J. Heitmann

Attachments

cc: Kim Scardino

[Text Size A](#)**ENROLL**
JOIN SAFELINK WIRELESS**AIRTIME**
ADD OR BUY MINUTES**SUPPORT**
CHECK APPLICATION STATUS**CHANGE**
CHANGE YOUR PLAN

Buy Airtime

Feel free to talk all you want from your SafeLink phone, if you run out of Minutes just buy an add any TracFone Airtime Card without interfering with your regular monthly benefits. They work with your phone and give you extra Minutes just for being a SafeLink customer plus get additional bonus minutes with special offers and Promo Codes from SafeLink!

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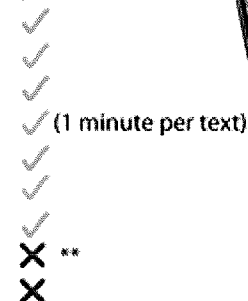
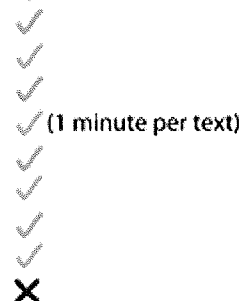
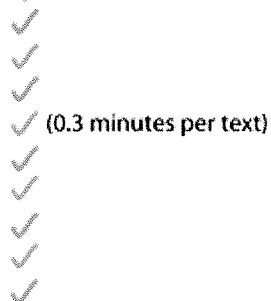
411 Directory Assistance*

Carry-over minutes from month to month

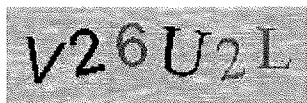
100+ International long distance destinations

* Minutes can be used for 411 calling at no additional cost.

** If you choose this plan, all unused minutes (including purchased cards and free minutes) will be removed/wiped out and will not carry-over on your next monthly minutes delivery.



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*** Enrollment Validation**

Please enter the text from the image above, without spaces. Letters are not case-sensitive.

Preserving Link Up for Low Income Americans

WC Docket Nos. 11-42, 03-109 and CC Docket No. 96-45

Link Up for America Coalition
September 12, 2011

Link Up for America Coalition

- The Coalition members include the following CETCs:
 - Assist Wireless
 - Global Connections of America
 - Midwestern Telecommunications (MTI)
 - NewPhone
 - Ready Wireless
 - Tag Mobile
 - Telrite (Life Wireless)

Link Up Is a Success Story

- **Link Up was established to remove low income consumer penetration barriers presented by customary activation charges**
 - The Commission repeatedly has touted the success of Link Up, calling it “critical” as recently as March
- **Link Up is a revenue replacement mechanism**
 - It is not a “cost reimbursement” program
 - FCC rules do not prescribe the uses to which Link Up subsidies may be put
 - CETCs have built legitimate business plans including extensive grassroots outreach efforts dependent on Link Up subsidies
- **Link Up is competitively neutral and technology neutral**
 - It's not unfair to TracFone
 - It's not a wireline only program

Where We Stand

- **The Coalition does not support the elimination or limitation of Link Up**
 - The record does not support eliminating Link Up
 - Eliminating Link Up would drive down penetration rates for low income consumers
 - The record does not support reducing the current subsidy caps
 - FCC data indicates that customary charges have remained about the same
 - Limiting support to “truck rolls” would largely eliminate Link Up and it would be neither competitively nor technology neutral
- **The Coalition supports modernization of Link Up**
 - We agree that costs matter
 - The Commission should take a closer look at cost factors and amounts...focusing on data
 - The Commission may wish to revisit the present subsidy caps, after it collects better evidence on the costs involved in providing Lifeline voice, as well as Lifeline broadband service
 - The Commission should expand Link Up for broadband

Where We Stand

- **Customary charges**

- We agree that customary charges are the stated charges ordinarily imposed on customers in a state and are not imposed only on Lifeline/Link Up customers
- We do not agree that customary charges should be defined to exclude charges waived, reduced or eliminated
 - Many states require CETCs to waive customary charges not covered by the Link Up subsidy
 - Waivers, reductions and credits/elimination of these charges benefit low income consumers and serve the goal of the fund
 - We oppose percentage-based triggers and other measures designed to hobble CETCs' ability to extend discounts to low income consumers
- The Commission should focus on what's good for low income consumers and not on what's good for TracFone
 - TracFone and others chose not to rely on Link Up
 - Coalition members and their low income customers are using Link Up as it was intended to be used

Setting the Record Straight on Costs

- **Link Up is not now and never has been limited to the costs of “truck rolls” or other physical installation of facilities**
 - Such a limitation would effectively eliminate Link Up for wireless providers
- **Parties claiming reduced customer activation costs have not provided data to support their claims**
 - The Coalition provided data showing that costs remain substantial
 - FCC statistics show that activation charges remain about the same
 - Most wireline and wireless carriers impose activation charges on new customers
 - TracFone and Leap/Cricket are exceptions

Setting the Record Straight on Costs

- TracFone, Cricket and others are wrong with respect to costs contemplated by the current Link Up revenue recovery mechanism – a whole lot more than “flipping the switch” was contemplated:
 - Activation, provisioning and connection costs, including systems and switch set-up
 - Administrative costs of establishing an account, including verification, certification and recordkeeping
- The Tribal Order extended the realm of costs contemplated by the Link Up revenue recovery mechanism to include
 - Truck rolls/facilities installation
 - Handsets (partial; reconsidered several years later)
- The 2010 Joint Board Recommended Decision implies that outreach costs are contemplated by the current Link Up revenue recovery mechanism
 - The Act and FCC rules require outreach
- TracFone is wrong with respect to costs that could or should be covered under a modernized Link Up program
 - The Commission can and should choose to expand Link Up support for broadband-capable handsets

TracFone Argument & Fact Checker

- TracFone: Link Up is only for connections
 - FCC: Link Up is for the replacement of foregone revenue from activation charges applied to recover service commencement costs, including (but not limited to) administrative costs
- TracFone: Link Up is only for residential phone lines
 - FCC: Link Up is available for wireless ETCs
- TracFone: Link Up is not intended to cover outreach
 - Joint Board: ETCs have outreach requirements because Link Up/Lifeline subsidies go to them
 - CenturyLink: our activation charges include recovery for overhead, including marketing

TracFone Argument & Fact Checker

- TracFone: Link Up is not for covering costs of complying with FCC and State eligibility and enrollment requirements
 - FCC: Link Up is to replace foregone revenue from activation charges applied to recover service commencement costs, including (but not limited to) administrative costs
- TracFone: Link Up is not for covering “costs of doing business” (CODB)
 - FCC: Link Up is a revenue replacement mechanism (no orders or rules – yet – prohibiting the use of replaced revenues for outreach, free phones and other things that benefit low income consumers)
 - FCC: Link Up contemplates all kinds of costs TracFone claims are CODB

TracFone Argument & Fact Checker

- TracFone: CETC activation charges can't be customary, because they factor in costs associated with serving Lifeline customers or are imposed only on Lifeline customers
 - FCC: no rules prohibiting the establishment of charges based on average costs to serve different classes of customers
 - Coalition: we do not impose activation charges exclusively on Lifeline customers
- TracFone: customary charges cannot be customary, if they are waived
 - States: customary charges shall be waived
 - Coalition: this does not make the charge something other than customary
 - AT&T: agrees that state waiver requirements should not render an ETC ineligible for Link Up funding

TracFone Argument & Fact Checker

- TracFone: we never charge low income consumers \$0.20/minute rates (we lowered our rate to \$0.10/minute the day before comments were due)
 - TracFone Website as of 9/12/2011: rate is still \$0.20/minute (100 minutes available for \$19.99)
 - If lower rates are available, should consumers be writing to Mr. Javier Rosado?
- TracFone: “additional minutes purchased by SafeLink Wireless® customers remain useable for never less than 30 days”
 - TracFone Website as of 9/12/2011: “If you choose [the 250 minute] plan, all unused minutes (including purchased cards and free minutes) will be removed/wiped out and will not carry-over on your next monthly minutes delivery.”

TracFone Argument & Fact Checker

- TracFone: Coalition members charge high top-up rates, too
 - Global Connections does offer a \$5 “micro-payment” top-up plan with 40 minutes (\$0.125/minute)
 - For \$30, Global includes 500 minutes (vs. 150 for TracFone – a 233% premium over Global’s rate)
 - Global also offers plans with rates as low as \$0.05/minute
 - NewPhone does not have any plans with rates as high as TracFone claims
 - NewPhone’s highest rate for wireless customers (Lifeline and non-Lifeline) is \$0.143/minute for its \$5 top-up plan (35 minutes) -- something TracFone does not offer
 - NewPhone also offers plans with rates as low as \$0.071/minute
 - NewPhone’s top-up minutes do not expire in 7 days

TracFone Argument & Fact Checker

- TracFone: Our success in signing-up Lifeline customers shows that Link Up is not needed
 - FCC: Link Up is critical
 - Joint Board: Link Up is essential
 - Low Income Consumers: none who have been connected in part due to Link Up funding are likely to agree with TracFone
 - Coalition: our success in signing up the Lifeline customers shows that Link Up is essential to realizing universal service goals
 - Coalition: TracFone's cream-skimming model has limited reach and appeal
 - Our outreach efforts involve and employ people in poor communities, providing in-person education about the Lifeline/Link Up program and in-person instruction about how to use our handsets
 - The Commission and the Joint Board have recognized that this type of outreach is essential to achieving the universal service goals set forth in the Act

Leap/Cricket Argument & Fact Checker

- Leap/Cricket: Link Up was not designed to replace foregone revenues irrespective of costs
 - Coalition: we agree; we provided sample cost data and we encourage the FCC to look at it and to seek more of it in a further rulemaking proceeding
- Leap/Cricket: Customer activation costs have decreased significantly over time
 - Coalition: saying the same thing repeatedly does not make it so – there is no evidence in the record to support this claim
- Leap/Cricket: there is no justification for keeping Link Up given declining costs and increased flexibility in establishing per minute charges to recover costs (in other words – raise per minute rates for low income consumers)
 - Coalition: record evidence does not support Cricket's declining cost assertion
 - Coalition: sure, we can raise rates, but some customers won't be able to pay higher rates and subscription levels will go down – what's good for Leap/Cricket isn't good for low income consumers, us or the Commission

What the Commission Should Do

- **Preserve Link Up in its current form**
 - Reject proposals to eliminate Link Up
 - Reject proposals to reduce the subsidy cap
 - Clarify that customary charges can include those that are waived, reduced or eliminated for the benefit of low income Americans
- **Issue an FNPRM**
 - We support modernization of Link Up, based on data and solid understanding of how various proposals will increase subscribership
 - We encourage the Commission to thoughtfully revisit current subsidy caps by taking a closer look at cost data, business models and the low income consumer
 - We support extending Lifeline and Link Up to support broadband, including support for broadband-capable handsets

Thank You

Link Up for America Coalition

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